

House File 2253 - Introduced

HOUSE FILE 2253
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 558)

A BILL FOR

- 1 An Act relating to Iowa's uniform disclaimer of property
- 2 interest Act.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633E.4, Code 2009, is amended to read as
2 follows:

3 **633E.4 Tax qualified disclaimer.**

4 ~~Notwithstanding~~ Except as provided in sections 633E.13
5 and 633E.15, notwithstanding any other provision of this
6 chapter, any disclaimer or transfer that meets the requirements
7 of section 2518 of the Internal Revenue Code, ~~as now or~~
8 ~~hereafter amended, or any successor statute thereto,~~ and the
9 regulations promulgated thereunder, for the purpose of being a
10 tax qualified disclaimer with the effect that the disclaimed
11 or transferred interest is treated as never having been
12 transferred to the disclaimant is effective as a disclaimer
13 under this chapter. For purposes of this section, "Internal
14 Revenue Code" means the same as defined in section 422.3.

15 Sec. 2. Section 633E.7, subsection 1, Code 2009, is amended
16 by striking the subsection and inserting in lieu thereof the
17 following:

18 1. Upon the death of a holder of jointly held property,
19 either of the following may occur:

20 a. If, during the deceased holder's lifetime, the deceased
21 holder could have unilaterally regained a portion of the
22 property attributable to the deceased holder's contribution
23 without the consent of any other holder, a surviving holder
24 may disclaim, in whole or in part, a fractional share of that
25 portion of the property attributable to the deceased holder's
26 contributions determined by dividing the number one by the
27 number of joint holders alive immediately after the death of
28 the holder to whose death the disclaimer relates.

29 b. For all other jointly held property, a surviving holder
30 may disclaim, in whole or in part, a fraction of the whole of
31 the property the numerator of which is one and the denominator
32 of which is the product of the number of joint holders alive
33 immediately before the death of the holder to whose death the
34 disclaimer relates multiplied by the number of joint holders
35 alive immediately after the death of the holder to whose death

1 the disclaimer relates.

2 Sec. 3. Section 633E.7, Code 2009, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 4. A noncitizen spouse who is a surviving
5 joint tenant of real property interests created after July 13,
6 1988, can disclaim the spouse's interest to the full extent
7 permitted under section 633E.4.

8 Sec. 4. Section 633E.13, subsection 5, Code 2009, is amended
9 to read as follows:

10 5. A disclaimer is barred or limited if so provided by law
11 other than this chapter, except as provided in subsection 7.

12 Sec. 5. Section 633E.13, Code 2009, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 7. A disclaimer may be made at any time
15 unless otherwise barred and any other law that would bar a
16 disclaimer due to the passage of time shall not apply under
17 this chapter.

18 Sec. 6. Section 633E.14, subsection 2, Code 2009, is amended
19 to read as follows:

20 2. This chapter does not limit any right of a person to
21 ~~waive, release, disclaim, or renounce~~ disclaim an interest in
22 or power over property under a ~~law~~ statute other than this
23 chapter.

24 EXPLANATION

25 This bill amends Code section 633E.4, relating to a tax
26 qualified disclaimer or transfer of a property interest, to
27 allow two exceptions (Code sections 633E.13 and 633E.15) to
28 the requirement that a disclaimer or transfer of a property
29 interest that is valid under section 2518 of the Internal
30 Revenue Code is valid for all purposes under Code chapter
31 633E. Code section 633E.13 identifies circumstances under
32 which disclaimers are barred or limited and Code section
33 633E.15 prohibits a disclaimer from being used to avoid medical
34 assistance obligations pursuant to Code chapter 249A.

35 The bill amends Code section 633E.7 relating to disclaimers

1 of rights of survivorship in jointly held property to provide
2 that upon the death of a holder of jointly held property,
3 either of the following may occur:

4 1. If, during the deceased holder's lifetime, the deceased
5 holder could have unilaterally regained a portion of the
6 property attributable to the deceased holder's contribution
7 without the consent of any other holder, a surviving holder
8 may disclaim, in whole or in part, a fractional share of that
9 portion of the property attributable to the deceased holder's
10 contributions determined by dividing the number one by the
11 number of joint holders alive immediately after the death of
12 the holder to whose death the disclaimer relates.

13 2. For all other jointly held property, a surviving holder
14 may disclaim, in whole or in part, a fraction of the whole of
15 the property the numerator of which is one and the denominator
16 of which is the product of the number of joint holders alive
17 immediately before the death of the holder to whose death the
18 disclaimer relates multiplied by the number of joint holders
19 alive immediately after the death of the holder to whose death
20 the disclaimer relates.

21 In addition, Code section 633E.7 is amended to allow a
22 noncitizen, surviving spouse to make a tax-qualified disclaimer
23 of property interests under section 2518 of the Internal
24 Revenue Code.

25 The bill amends Code section 633E.13 to provide that there
26 is no time limit in regard to a disclaimer of an interest in
27 property.

28 The bill amends Code section 633E.14 to prohibit common
29 law disclaimers as an alternative to disclaimers of property
30 interests under Code chapter 633E.